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JUN 14 2007



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Memorandum **CAPA COUNCIL MEMO NO. 9**

DATE: MAY 14, 2007

TO: MAYOR AND CITY COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER
 PAT MCDERMOTT, ASST. CITY MANAGER
 NACHIE MARQUEZ, CAPA DIRECTOR *NM*

FROM: MARGARET COULTER, COMMUNICATIONS MANAGER *MC*

SUBJECT: INTRODUCTION OF ORDINANCE NO. 3917, AMENDING A WIRELESS TELECOMMUNICATIONS USE AGREEMENT BETWEEN VERIZON WIRELESS LLC, DBA VERIZON WIRELESS AND THE CITY OF CHANDLER AT SNEDIGAR SPORTSPLEX

RECOMMENDATION: Staff recommends approval of Ordinance No. 3917.

BACKGROUND: This agenda item was originally introduced to the City Council at its April 26, 2007 Council meeting and received tentative approval by Council. After the Council Meeting, Verizon Wireless' Legal Department requested that some additional clarifications be made in the amendment such as referring to the company as VZW instead of Verizon, clarification to the start date of the rent change, and the signature block for the company. The remaining language and terms remains the same as what was presented to Council originally.

Ordinance 3917 amends Ordinance 3353 by extending the agreement an additional five years and raises the new base rate to \$1626 per month. The parties will also enter into a letter agreement which authorizes modifications to existing facilities, primarily related to the width of the top portion of the pole and the length of the flat mounted antenna. The Police and Fire departments have determined that the modifications will not cause any interference to the City's public safety communication systems and the City's Planning staff has found the modifications to be within City zoning standards. The Community Services Park staff has also agreed that the modifications will not inhibit City's operations or property. Staff has concluded that the proposed Amendment would be in the best interests of the City of Chandler and its citizens and would satisfy the License provisions.

FINANCIAL IMPLICATIONS: The Company will pay permit, inspection and pavement damage fees if applicable. Verizon will also pay \$1626 per month rent for the Snedigar site with provisions for rent increases detailed in the Agreement. There will also be 2.75% privilege taxes applied on any non-interstate telecommunication services.

PROPOSED MOTION: Move to approve the Ordinance No. 3917, which amends the Wireless Telecommunication Use Agreement between City of Chandler, Arizona and Verizon Wireless (VAW) LLC dba Verizon Wireless (VZW) at the Snedigar Sportsplex

Attachment: Ordinance 3917, Amendment One

ORDINANCE NO. 3917

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE FIRST AMENDMENT TO THE AGREEMENT BETWEEN VERIZON WIRELESS LLC AND THE CITY OF CHANDLER FOR WIRELESS TELECOMMUNICATIONS FACILITIES AT THE SNEDIGAR SPORTSPLEX

WHEREAS, the City of Chandler and Verizon Wireless (VAW) LLC, dba Verizon Wireless (hereinafter "VZW") entered into an Agreement authorized pursuant to Ordinance No. 3353 which was a wireless telecommunications use agreement; and

WHEREAS, the parties have agreed to amend the terms of the agreement to provide for a larger antenna to be used by VZW pursuant to the terms of this agreement and for VZW to pay the City pursuant to an amended fee structure;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AS FOLLOWS:

SECTION I: That the Mayor of the City of Chandler is herewith authorized to execute Amendment No. 1 to Agreement authorized pursuant to Ordinance No. 3353, a wireless telecommunications use agreement between VZW and the City of Chandler.

SECTION II: That the various City officers and employees be and they are hereby authorized and directed to perform all acts necessary to give effect to this Ordinance.

SECTION III: This Ordinance shall become effective thirty days from and after its final adoption: provided, however, that the agreement hereby granted shall not become effective unless and until VZW has accepted said agreement as provided herein and has carried out such other terms and conditions as may be required before said agreement shall become effective.

INTRODUCED AND TENTATIVELY ADOPTED by the City Council of the City of Chandler, Maricopa County, Arizona, this ___ day of _____, 2007.

ATTEST:

CITY CLERK

MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona this ____ day of _____, 2007.

ATTEST:

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 3917 was duly passed and adopted by the City Council of the City of Chandler, at a regular meeting held on the ____ day of _____, 2007 and that a quorum was present thereat.

City Clerk

Published:

APPROVED AS TO FORM:

plm

AMENDMENT NO. ONE

TO WIRELESS TELECOMMUNICATIONS USE AGREEMENT AND ENCROACHMENT PERMIT BETWEEN VERIZON WIRELESS (VAW) LLC, DBA VERIZON WIRELESS AND THE CITY OF CHANDLER AT SNEDIGAR SPORTSPLEX

This Amendment Number One is to the Wireless Telecommunications Use Agreement and Encroachment Permit between Verizon Wireless (VAW) LLC, dba Verizon Wireless (hereinafter "VZW"), and the City of Chandler (hereinafter "the City"), dated August 23, 2002 (hereinafter "Agreement").

WHEREAS, on July 26, 2002, the City Council approved Ordinance 3353, authorizing the City to enter into a Wireless Telecommunications Use Agreement and Encroachment Permit for VZW to install communication facilities at the Snedigar Sportsplex, and

WHEREAS, this Agreement allowed for a 5-year extension of the Agreement upon the mutual agreement of the parties, and

WHEREAS, both the City and VZW wish to exercise the option to extend the Agreement by 5 (five) years and to establish a new base rate, and

NOW THEREFORE, the parties agree as follows:

1. Section 5.1 of the Agreement is amended to provide an extension of five years as authorized pursuant to the Agreement from August 23, 2007 to August 22, 2012.
2. Section 4.3.1 of the Agreement is amended to provide, as of September 1, 2007, an increase in the rent from Five Hundred and Fifty-Two and 00/100 Dollars (\$552.00) per month ("Rent") to One Thousand Six Hundred Twenty-Six and 00/100 Dollars (\$1,626.00) per month ("Rent"). Other terms of Section 4.3.1 remain unchanged.
3. All other terms and conditions of the original Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names this ____ day of _____, 2007.

CITY OF CHANDLER:

MAYOR

APPROVED AS TO FORM:

City Attorney
pkm

ATTEST:

City Clerk

Verizon Wireless (VAW) LLC,
dba Verizon Wireless

Keith A. Surratt

BY: Keith A. Surratt

TITLE: West Area Vice President, Network

ATTEST: (If corporation)

ATTACHED
Secretary

SEAL

STATE OF ARIZONA)
)
COUNTY OF MARICOPA)

ACKNOWLEDGMENT

I, Kristi L Lee, a Notary Public for said County and State, do hereby certify that Keith A. Surratt personally came before me this day and acknowledged that he is the West Area Vice President - Network, of Verizon Wireless (VAW) LLC, and that he, as West Area Vice President - Network, being authorized to do so, executed the foregoing Amendment on behalf of Verizon Wireless (VAW) LLC, d/b/a Verizon Wireless.

WITNESS my hand and official Notarial Seal, this 21st day of May, 2007.



Kristi L Lee
Notary Public

My Commission Expires: 6/14/2010